

As members of Congress begin to lay out their priorities for additional coronavirus relief legislation, President Donald Trump [tweeted](#) his support of a US\$2 trillion economic stimulus bill focused solely on jobs and infrastructure projects.

House Speaker Nancy Pelosi (D-CA) has previously stated that infrastructure investments should be included in a Phase 4 bill, though Senate Majority Leader Mitch McConnell (R-KY) asserted that the next relief bill should focus on COVID-19-related recovery efforts. Over the past few days, Speaker Pelosi acknowledged the need for a Phase 4 stimulus package to address the immediate health crisis, while continuing negotiations on a Phase 5 measure that can support jobs and economic recovery, with an infrastructure focus.

Here, we examine regulatory developments and implementation of certain policies enacted by the CARES Act (the Coronavirus Aid, Relief, and Economic Security Act). We also highlight what might be included in a Phase 4 package, and try to help regulated industries position for a wide array of opportunities we anticipate in a Phase 5 infrastructure bill.

Communications

What to expect in Phase 5 – broadband and communications proposals being considered: On April 1, 2020, House Democrats unveiled their [infrastructure priorities](#), including US\$86 billion over five years for broadband projects and US\$12 billion for next-generation 911 upgrades. The priorities include funding to expand broadband access to unserved and underserved rural, suburban and urban communities. House Democrats proposed US\$10 billion for community health centers, which would include, in part, funding to ensure that each center has access to the internet. Congress might also consider funding for schools and libraries to provide students, teachers and library patrons with Wi-Fi hot spots, connected devices and mobile broadband service.

FCC established US\$200 million telehealth program: On March 31, 2020, the Federal Communications Commission (FCC) [established](#) a US\$200 million COVID-19 Telehealth Program to implement a provision in the CARES Act and to help healthcare providers provide connected care services during the COVID-19 pandemic. The program will help eligible healthcare providers purchase telecommunications services, information services and devices necessary to provide telehealth services. The FCC will accept applications for the program immediately after *Federal Register* publication. Our summary of the program and its details are available [here](#).

Connected Care Pilot Program to support connectivity:

The FCC also [established](#) a Connected Care Pilot Program (Pilot Program) within the Universal Service Fund (USF) to make available up to US\$100 million over three years to examine how the USF can support connected care services. The Pilot Program will provide USF support to eligible healthcare providers to defray their qualifying costs of providing connected care services to patients participating in their pilot projects, particularly low-income Americans and veterans. Eligible nonprofit and public healthcare providers can apply for the Pilot Program. Funding will cover costs of broadband connectivity, network equipment and information services necessary to provide connected care services to patients.

Promoting connectivity and access to broadband:

For additional information regarding recent actions taken by the FCC and provisions of the CARES Act regarding the communications industry and broadband, please review our summary [here](#).

Agriculture

Distance learning and telemedicine grant program:

On April 3, 2020, the US Department of Agriculture (USDA) [announced](#) a second application window for the agency's Distance Learning and Telemedicine Grant Program, which received an additional US\$25 million in the CARES Act. The grants intend to provide rural areas with greater access to remote educational opportunities and healthcare, which are critical during this time in which social distancing is encouraged.

Environmental, Safety and Health

US EPA issues NPDES advisory: On March 26, 2020, the US Environmental Protection Agency (US EPA) issued a temporary policy regarding enforcement of routine monitoring, recordkeeping and reporting violations caused by the COVID-19 pandemic. On March 31, 2020, US EPA provided further direction to US EPA Regional Offices on how to implement a new temporary policy regarding National Pollutant Discharge Elimination System (NPDES) reporting requirements ([NPDES advisory](#)). This advisory applies to US EPA Regional Offices, but the agency encourages states to take a similar approach to ensure consistent national data. Environmental interest groups fear that US EPA's recent guidance will lead to lower enforcement of environmental violations and have filed a petition for emergency rulemaking asking US EPA to impose mandatory electronic reporting obligations on all companies relying on the agency's COVID-19 policy. For additional information, see [this post](#) on our blog, *frESH Perspectives on Environmental, Safety & Health (frESH)*.

COVID-19 reporting in the workplace: The Occupational Safety & Health Administration's (OSHA) "current position is that COVID-19 is required to be recorded when an employee is infected with coronavirus and falls ill in the course of employment." Since this announcement, discussed in detail on our [frESH blog](#), it appears OSHA has expounded on this position, saying, "employers are only responsible for recording cases of COVID-19 if all of the following are met:

1. The case is a confirmed case of COVID-19 (see CDC information on persons under investigation and presumptive positive and laboratory-confirmed cases of COVID-19)
2. The case is work-related, as defined by 29 CFR 1904.5, and
3. The case involves one or more of the general recording criteria set forth in 29 CFR 1904.7 (e.g., medical treatment beyond first-aid, days away from work)"

Preparing for and preventing COVID-19 in the workplace:

OSHA's recent [Guidance on Preparing Workplaces for COVID-19](#) "focuses on the need for employers to implement engineering, administrative, and work practice controls and personal protective equipment (PPE), as well as considerations for doing so." OSHA states that "[e]mployers and workers should use this planning guidance to help identify risk levels in workplace settings and to determine any appropriate control measures to implement." OSHA also issued alerts focused on [preventing worker exposure to COVID-19](#) and [classifying worker exposure risk to COVID-19](#).

Energy and Natural Resources

Will a Phase 4 bill support the energy industry? Speaker Pelosi has identified the energy grid as a main priority for the next stage of legislation. We also anticipate there will be Phase 4 discussions around the Strategic Petroleum Reserve (SPR) and renewable energies. Possible strategies may include not only the US government purchasing oil and gas for the SPR (if such action is not taken administratively by the US Department of Energy in the coming days), but also monetization of renewable energy tax credits. It remains to be seen whether such a combination has the makings of a bipartisan consensus on renewable energy.

Nevertheless, some renewable advocates are asking Congress to allow companies to take direct payments from the Treasury in lieu of the existing tax credits, an approach used after the financial crisis over a decade ago. They argue they need such flexibility, as tax equity markets are drying up and blunting the effectiveness of existing credits used to finance wind farms and solar arrays. Other potential forms of relief might include extensions of solar and wind tax credits, changes to safe harbor, and commencing construction provisions and related financial measures to alleviate tax equity tightening.

CISA considers energy workers "essential": The Cybersecurity and Infrastructure Security Agency (CISA) at the Department of Homeland Security updated its [Advisory Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response](#) to include energy workers "regardless of the energy source." The new guidelines specifically address the renewable energy industry and designate those workers and engineers as essential. While the CISA memorandum is advisory in nature, many states have adopted these guidelines to inform their mandatory non-essential business closures.

Other critical and timely updates about the energy industry regarding COVID-19 can be found [here](#).